

REMARKS

I. Introduction

Claims 11 to 15, 17 to 25, and 27 to 30 are pending in the present application. It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 11 to 15, 17 to 25, and 27 to 30 Under 35 U.S.C. § 103(a)

Claims 11 to 15, 17 to 25, and 27 to 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of U.S. Patent No. 4,840,829 ("Suzuki et al."), U.S. Patent No. 5,162,074 ("Hills"), U.S. Patent No. 5,783,503 ("Gillespie et al."), U.S. Patent No. 5,112,690 ("Cohen et al."), and U.S. Patent No. 6,004,306 ("Robles et al."). Applicants respectfully submit that the present claims are allowable for the following reasons.

Claim 11 relates to perforated nonwoven fabric. Claim 18 relates to a method for producing a perforated nonwoven fabric. Claim 20 relates to a hygiene product.

Suzuki et al. purportedly relate to a nonwoven fabric patterned with apertures. Gillespie et al. purportedly relate to meltspun multicomponent thermoplastic continuous filaments, products made therefrom, and methods therefore. Hills purportedly relates to a method of making plural component fibers. As previously argued, Applicants respectfully submit that the combination of Suzuki et al., Gillespie et al. and Hills does not disclose, or even suggest, a perforated nonwoven fabric that does not exceed 0.20% by weight in relation to the nonwoven weight of the at least one surface-active agent, nor the step of impregnating the perforated nonwoven fabric with at least one surface-active agent, wherein the perforated nonwoven fabric does not exceed 0.20% by weight in relation to the nonwoven weight of the at least one surface-active agent.

In response, the Final Office Action further relies upon Cohen et al. and Robles et al. Nowhere, however, do either Robles et al. or Cohen et al. disclose, or even suggest, a perforated nonwoven fabric that does not exceed 0.20% by weight in relation to the nonwoven weight of the at least one surface-active agent, or the step of impregnating the perforated nonwoven fabric with at least one surface-active agent, wherein the perforated nonwoven fabric does not exceed 0.20% by weight in relation to the nonwoven weight of the at least one surface-active agent.

Robles et al. purportedly relate to an absorbent article with multi-directional extensible side panels. The Final Office Action does not rely upon Robles et al. for disclosing a specific weight percentage of surfactant, as required by claims 11, 18, and 20. Nor do Robles et al. disclose the specific weight percentage of surfactant, as required by claims 11, 18, and 20.

Cohen et al. purportedly relate to a low hydrohead fibrous porous web with improved retentive wettability. The Final Office Action alleges that Cohen et al. disclose a hydrophobic top sheet or diaper liner with a weight percentage loading of surfactant that can be as low as 0.05 weight percent of the total web. Applicants respectfully disagree. Cohen et al. state that a surface concentration of the surface active agent should be at least 0.05% by weight of the fibrous porous web material not that overall weight of the surfactant used should be at least 0.05% of the weight of the web material. See col. 6, lines 37 to 42. Cohen et al. specifically recognize that not all of the surface active agent added to the melt actually blooms and state, therefore, that the amount of surface active agent added to the melt should be greater than the amount desired to be present on the surface. See col. 6, lines 51 to 54. Cohen et al. do not state directly the amount of surface active agent to be added to the melt necessary to achieve the 0.05% surface concentration but do provide examples of various melts, all of which indicate that the required overall weight percentage of surfactant relative to the blend is over 0.20%. In the examples, the overall amount of surfactant relative to blend provided by Cohen et al., i.e., 0.45%, 0.5% to 0.8%, and 0.6% to 0.7%, are all above the maximum of 0.20% required by claims 11, 18, and 20. See col. 11, lines 1 to 24.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As stated above, the combination of Suzuki et al., Hills, Gillespie et al., Cohen et al., and Robles et al. fails to disclose, or even suggest, each and every feature of claims 11, 18 and 20. It is therefore respectfully submitted that the combination of Suzuki et al., Hills, Gillespie et al., Cohen et al., and Robles et al. does not render obvious claims 11, 18 and 20.

Claims 12 to 15, 17 and 28 depend from claim 11 and therefore include all of the limitations of claim 11. Claims 19 and 29 depend from claim 18 and therefore include all of the limitations of claim 18. Claims 21 to 25, 27 and 30 depend from claim 20 and therefore include all of the limitations of claim 20. Therefore, it is respectfully submitted that these dependent claims are patentable over the combination of Suzuki et al., Hills, Gillespie et al., Cohen et al., and Robles et al. for at least the same reasons provided above in support

of the patentability of claims 11, 18 and 20, respectively. *In re Fine, supra* (any dependent claim that depends from a non-obvious independent claim is non-obvious).

III. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

KENYON & KENYON LLP

Dated: July 10, 2006

By: 

Richard M. Rosati
Reg. No. 31,792

One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646